

HUMAN RIGHTS WATCH | WORLD REPORT 1999

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# Kenya

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## Human Rights Developments

The lead-up to Kenya's second multiparty election, on December 29, 1997, was fraught with violence and intimidation, and marred by government reneging on promised legal reforms to allow genuine political liberalization. Several peaceful pro-democracy rallies were brutally dispersed, an estimated one million eligible youth were denied registration, and over 100,000 people were displaced in the Coast Province following ethnically-driven attacks on groups largely affiliated with the opposition. Under pressure, the government made concessions a month before the election to allow some constitutional reform and to permit the registration of opposition party Safina. While these gestures calmed somewhat the volatile climate and allowed for the election to proceed, they were not sufficient to level the playing field to allow for a genuinely free and fair election. The reelection of President Moi for five more years and the victory of his ruling party was due both to longstanding government obstruction of the opposition as well as to deep divisions within the opposing parties, largely on ethnic lines.

There were hopes that the election would bring an end to the violence that had marred the run-up and that President Moi would finally permit reform after securing a further, and under constitutional term-limits, final term of office. However, 1998 was marked both by deepening ethnic hatred and continuing violence, and a growing political crisis due to the government's unwillingness to allow any reform that would end the absolute executive power wielded by President Moi. The president responded to calls for reform with a characteristic combination of recalcitrance and brutality, all the while making promises to bring about change.

In January, the results of the presidential election were challenged in a court petition by opposition Democratic Party (DP) leader Mwai Kibaki, who subsequently, with his lawyer, received anonymous death threats. "Ethnic" violence also followed in two DP constituencies in Rift Valley Province. Armed groups of Kalenjin (the president's ethnic group) attacked ethnic Kikuyu residents in night raids, raping, hacking with machetes, or killing with firearms, before looting and burning their homes. Over one hundred people were reportedly killed and thousands displaced. The initial attacks were well organized and from outside the community.

The attacks mirrored similar violence that had taken place in the run-up

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to the previous elections in 1992 and afterwards, when members of the ruling party attacked members of ethnic groups considered to support the opposition. In those attacks, it was later found that ruling party members had paid some attackers a fee for each house burned and person killed and that government vehicles had transported some of the attackers. Since 1992, over 300,000 people had been displaced by this violence. The authorities consistently failed to provide adequate security to those under threat or to hold those responsible for the violence accountable. As in the past, the response of the security forces to the violence was slow and although some arrests were made and security temporarily increased, residents remained distrustful of the authorities.

In retaliation, members of the Kikuyu community attacked and virtually wiped out a Kalenjin community at Naishe (Lare), slaughtering men, women, and children. Shortly after the attack on the Kalenjin community, President Moi publicly called for peace and the violence subsided, although sporadic attacks continued through the year.

The renewal of political violence occurred against the backdrop of the calls for legal reform to curb presidential powers. Some significant legislative reforms were passed in November 1997 following talks between the government and opposition politicians in the Inter-Parties Parliamentary Group (IPPG). Prior to the election, a coalition of opposition parties, human rights, religious and nongovernmental groups came together in the National Convention Executive Council (NCEC) to call for constitutional reform. Peaceful rallies and strikes called by the NCEC in 1997 were met with brutal force, however, in what was a major factor in pushing for the enactment of the reforms prior to the election. The government successfully divided the constitutional reform lobby by selecting the IPPG as a body to deal with and excluding the NCEC from participation in the reform process, reducing its momentum and dividing the reform constituency. By year's end, the reform crisis had not been resolved and the post-election environment continued to be characterized by distrust, infighting, and a lack of consensus—playing perfectly into Moi's hand.

In August, Kenya became the focal point of the international news following the bombing of the U.S. embassies there and in neighboring Tanzania. The attack on the embassy resulted in the death of some 400 Kenyans as well as twelve embassy staff members; thousands of Kenyans were wounded, many grievously. In addition to the human suffering caused by the bombing itself, the incident had further repercussions for the human rights situation. First, the event drew international attention from the domestic human rights problems in Kenya. Second, the government's response to the bombing was to crack down indiscriminately against foreigners and Muslim-run nongovernmental organizations (NGOs). Refugees without distinction were told to report to the immigration authorities and informed that documents issued by the U.N. High Commissioner for Refugees to them were no longer valid. When accredited refugees with UNHCR letters presented themselves at immigration, these letters were taken away and

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they were given papers that deemed them illegal immigrants.

In September, without making public the basis for the measures, the government canceled the registration of five Islamic relief agencies for allegedly supporting terrorism—the Al-Haramain Foundation, Help African People, the Islamic Relief Organization, the Ibrahim Bin Abdul Aziz Al Ibrahim Foundation, and Mercy Relief International. The authorities claimed that materials for the bomb were smuggled in as relief aid with the help of some Islamic relief agencies. The offices of Mercy Relief International had been raided by the Kenyan police and agents of the U.S. Federal Bureau of Investigations (FBI) shortly after the bombing.

Police brutality, bad prison conditions, lack of an independent judiciary, and repressive legislation remained major impediments to respect for human rights in Kenya. No progress was made during 1998 by the legal task forces formed by the attorney general in 1993 to amend or repeal repressive legislation that impinged upon the rights of freedom of speech, association, and assembly.

The independent media also came under attack. In April, the editor of Dispatch was arrested for an article containing “alarming information.” In July, three publications were refused registration—Finance , Post, and Star —and a fourth, Kenya Confidential , was told that it was functioning illegally since it had not registered. The same month, newspaper stalls were attacked by unknown assailants who destroyed hundreds of copies of the Daily Nation newspaper, the most outspoken daily.